

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:04CV21-3-MU**

FRANCISCO CURBELO,

Plaintiff,

Vs.

JIM PENDERGRAPH; ELAINE GRAVITT;
CPT. NORMAN GOODE; SGT DENNIS
RAY SUMMERS; OFFICER G. MILLER;
SKINNER WADE ROBINSON

Defendants.

ORDER

THIS MATTER comes before the Court upon the Plaintiff's Complaint [Document No. 1] filed pursuant to 42 U.S.C. § 1983, filed January 20, 2004 and Plaintiff's "Petition of Consolidate" [Document No. 2} filed April 29, 2004.

Defendants should note Plaintiff filed an appeal from the August 8, 2004 Order of this Court dismissing his amended complaint as unintelligible. The Fourth Circuit Court of Appeals vacated this Court's Order and remanded for further proceedings. The Fourth Circuit also granted Plaintiff's "Motion To Petition of consolidation" which it construed as a motion to supplement his informal brief.

After careful review of the Complaint and case file, the undersigned finds that the Defendants should file an Answer detailing Plaintiff's allegations and responding to each. Defendants' Answer to Plaintiff's Complaint should also address Plaintiff's "Motion to Petition consolidation." Defendants should file an Answer detailing all of Petitioner's claims paying specific

attention to any timeliness arguments using the date that Plaintiff originally filed his Complaint. Finally, while the Fourth Circuit noted claims of deliberate indifference to Plaintiff's medical needs and a claim related to conditions of Plaintiff's confinement, this Court views those issues as examples of some of Plaintiff's claims and not meant to be an exhaustive list of all of the claims Plaintiff may be asserting in his Complaint. Therefore, the Court directs the Defendants' Answer to include all possible claims included in Plaintiff's Complaint as well as his "Motion To Petition Consolidation" which the Fourth Circuit granted and construed as a motion to supplement.

THEREFORE, IT IS HEREBY ORDERED that:

1. No later than sixty (60) days from the filing of this Order, the Defendants file an Answer to Plaintiff's Complaint, detailing all of Plaintiff's allegations and responding to each.
2. The Clerk shall issue summons and deliver it forthwith to the U.S. Marshall who will make service of process without additional cost.

Signed: July 25, 2005

Signed: July 27, 2005



Graham C. Mullen
Chief United States District Judge



Graham C. Mullen
Chief United States District Judge

